

State of Montana
American Recovery and Reinvestment Act Waiver Request

Waive the Competitive Process Requirement for Procurement of Youth Providers and Amend the PY2007 WIA Title IB Contracts to allow existing competitively procured youth service providers to manage American Recovery and Reinvestment Act Summer Employment Activities

The Montana Department of Labor and Industry (MDLI), the State administrative entity for the Workforce Investment Act (WIA), is requesting to waive the procurement requirements in WIA Section 123 and WIA Regulations at 664.610 to use the existing competitively procured youth service provider network to provide youth activities through the American Recovery and Reinvestment Act of 2009. MDLI understands that the waiver is applicable only through the summer of 2009 (May 1st through September 30th).

MDLI followed the State's (Montana Department of Administration) procurement guidelines in conducting an open competitive process to procure WIA youth service providers in 2007 to operate WIA Title IB youth programs beginning Program Year 2007.

Additionally, in accordance with State's procurement guidelines and contingent on youth funding levels and availability, the original contracts will extend over a five year period of July 1, 2007 to June 30, 2012. The five year extension gives MDLI the authority to amend the contracts for each new program year in addition to the authority to modify the original contract as required when the state receives youth dollars outside the regular funding stream (e.g., WIA recaptured or reallocation funds, or legislative funded youth programs managed by MDLI).

MDLI expects to expand funding in the existing competitively procured contracts by approximately 80% and participants enrolled in the summer employment program through September 30, 2009 will be at 100%.

Waiver Plan

Section 189(i)(4) of the Workforce Investment Act permits a state to seek waivers of statutory or regulatory requirements, as well as setting forth what information must be provided in seeking such a waiver. The waiver request format follows WIA Law Section 189(i)(4)(B) and Regulations at 20 CFR Part 661.420.

1. Statutory Regulations to be waived:

Regulations at 20 CFR Part 664.610 which requires that Chief Elected Officials and Local Boards as grant recipients administer summer youth employment opportunities OR select providers of the summer youth employment program through a competitive procurement process. Montana is a single statewide planning area and there are no local boards. The Montana Department of Labor and Industry

is the grant recipient of WIA and ARRA funds and as the grant recipient MDLI is requesting to waive:

- a. the requirement at 20 CFR Part 664.610 to administer the summer employment opportunities and the competitive procurement process; and
- b. WIA Law Section 123 which requires selection of eligible youth providers through a competitive process.

2. Describe action the State has undertaken to remove State or local statutory or Regulatory barriers:

The five year extension period (PY'07 – PY'12) which permits MDLI to amend or modify existing youth provider contracts, from 2007 to 2012, eliminates any state barriers and there are no local statutory or regulatory barriers to implementing the proposed waiver. Upon notification of approval of this waiver request, State rules, policies and procedures will be developed and issued to comply with the terms of this waiver.

3. Waiver goals and measurable programmatic outcomes, if the waiver is granted:

- Permit MDLI to use existing competitively procured youth providers who have demonstrated records of success to administer summer employment programs.
- Amend existing competitively procured youth service provider contracts
- Provide a more responsive and comprehensive summer program that can be implemented quickly and effectively taking advantage of the expertise and established system available through current youth providers.

The structure to operate a full-scale summer employment program is in place. The majority of current youth service provider agencies have been in business since before the Job Training Partnership Act and have over twenty-five years experience operating youth programs both year-round and summer employment activities. While WIA implementation eliminated a separate funding stream for the summer employment and training programs and incorporated summer employment opportunities into the ten program elements current youth providers offer summer employment opportunities to their participants. WIA summer employment opportunities cannot be compared to pre-WIA summer employment programs but the service providers' connections with employers and potential work sites remains as strong.

4. Describe any individuals affected by the waiver:

The waiver will have a positive benefit for:

- a. MDLI to have the ability to amend contracts quickly and not go through a lengthy procurement process;
- b. Employers who have worked with and are familiar with current youth providers and the work experience concept;
- c. youth customers; and
- d. service providers.

The following are expected to be additional impacts of the proposed waiver:

- Streamlined process of procuring summer youth program providers with demonstrated records of success in providing youth services
- Ability to provide comprehensive services to summer youth quickly and effectively

5. Describe the processes used to:

(i) Monitor the progress in implementing the waiver:

MDLI as the state administrative entity for Workforce Investment Act Title IB programs will monitor the implementation and impact of the waiver. MDLI will provide applicable guidelines, policies and procedures for the ARRA summer youth employment programs and monitor the ARRA summer employment activities (worksites, participant eligibility, etc.) separate from regular WIA monitoring.

MDLI will submit reports to USDOL, if and when required, detailing the impact of this waiver.

(ii) Provide notice to any Local Board affected by the waiver:

Montana is a single statewide planning area and the SWIB has local board responsibilities. The draft waiver was posted on the SWIB website, and all SWIB members were notified it was available for review and comment.

(iii) Provide any Local Board affected by the waiver an opportunity to comment on the request:

Montana is a single statewide planning area and the SWIB has local board responsibilities. The draft waiver was posted on the SWIB website, and all SWIB members were notified it was available for review and comment.

(iv) Ensure the opportunity for meaningful public comment, including comment by business and organized labor, on the waiver:

A general public comment period was provided through posting the proposed Waiver request on the SWIB website for **10** days, and notifying all SWIB members and SWIB interested persons it was available for review and comment. After the public comment period, the proposed Waiver request was presented to the SWIB Executive Committee for approval, during a publicly noticed meeting. Committee members were presented with all public comments received during the public comment period, and asked for additional public comments during the meeting. Comments approved by the Committee were incorporated into the final Waiver request. Formal action was taken by the SWIB Executive Committee to approve the proposed Waiver request for submittal to USDOL.

Montana appreciates the flexibility afforded to states through the waiver process and anticipates the waiver plan provides adequate accountability and improved performance for USDOL approval.